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**PATENT COOPERATION TREATY  
PCT  
INTERNATIONAL PRELIMINARY EXAMINATION REPORT**

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>INN01.005P</b>	<b>FOR FURTHER ACTION</b>	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416).
International Application No. <b>PCT/AU2003/001167</b>	International Filing Date ( <i>day/month/year</i> ) <b>5 September 2003</b>	Priority Date ( <i>day/month/year</i> ) <b>11 September 2002</b>
International Patent Classification (IPC) or national classification and IPC <b>Int. Cl. 7 A42B 3/30</b>		
Applicant <b>INNOTECH PTY LTD et al</b>		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheet(s).

3. This report contains indications relating to the following items:

- I  Basis of the report
- II  Priority
- III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

Date of submission of the demand <b>17 September 2003</b>	Date of completion of the report <b>13 January 2005</b>
Name and mailing address of the IPEA/AU <b>AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929</b>	Authorized Officer  <b>VINCE BAGUSAUSKAS</b> Telephone No. (02) 6283 2110



**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be nonobvious), or to be industrially applicable have not been examined in respect of:

the entire international application,

claims Nos: **5 to 16**

because:

the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for said claim Nos. **5 to 16**

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

the written form has not been furnished or does not comply with the standard.

the computer readable form has not been furnished or does not comply with the standard.

**IV. Lack of unity of invention**

1. In response to the invitation to restrict or pay additional fees the applicant has:

- restricted the claims.
- paid additional fees.
- paid additional fees under protest.
- neither restricted nor paid additional fees.

2.  This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- complied with.
- not complied with for the following reasons:

The international application does not comply with the requirements of unity of invention because it does not relate to one invention or to a group of inventions so linked as to form a single general inventive concept. In coming to this conclusion the International Searching Authority has found that there are different inventions as follows:

1. Claims 1 and 4 are directed to a communication apparatus that is fastenable to a safety helmet. It is considered that the vibration conduction microphone and the speaker enclosure come into contact with a rear of the wearers head comprises a first "special technical feature".
2. Claim 5 is directed to a speaker enclosure. It is considered that the membrane that is arranged on the housing to seal the at least one opening so that the speaker is shielded from water comprises a second "special technical feature".
3. Claim 12 is directed to a vibration conduction microphone. It is considered that the acoustic isolator that is positioned in the housing and being disposed about the transducer comprises a third "special technical feature".
4. Claim 17 is directed to a vibration conduction microphone or (in one alternative of said claim) speaker enclosure. It is considered that having the microphone or speaker contacting the rear of the wearers head comprises a fourth "special technical feature".

Since the abovementioned groups of claims do not share any of the technical features identified, a "technical relationship" between the inventions, as defined in PCT rule 13.2 does not exist. Accordingly the

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- all parts.
- the parts relating to claims Nos. 1 to 4, 17 to 21

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims 1-4, 18-21	YES
	Claims 17	NO
Inventive step (IS)	Claims 1-4, 18-21	YES
	Claims 17	NO
Industrial applicability (IA)	Claims 1-4, 17-21	YES
	Claims	NO

**2. Citations and explanations (Rule 70.7)**

The following documents identified in the International Search Report have been considered for the purposes of this report:

- D1) US 6298249
- D2) WO 91/14351

**NOVELTY (N) 17**

Claim 17 may include in one form, a speaker enclosure as the "transducing means". Said transducing means contacts the rear of the wearers head. D1) and D2) clearly disclose this arrangement. Therefore claim 17 is not new and does not meet the requirement of Article 33(2) of the PCT with the requirement of novelty.

Claims 1 to 4 are differentiated from the citations in that the microphone and speaker enclosure come into contact with the rear of the wearer's head. The same is also said of claims 18 to 21

**INVENTIVE STEP (IS) 17**

Claim 17 also lack an inventive step for the reasons given above.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/AU2003/001167

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claim 18 is not clear since the word "conduction" seems inappropriate.